



# THE ATTORNEY GENERAL OF TEXAS

WAGGONER CARR  
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

December 6, 1965

Honorable Jimmy Morris  
County Attorney  
Navarro County  
Corsicana, Texas

Opinion No. C-558

Re: Construction of Article  
15.16 of the Code of Criminal  
Procedure of 1966 as to word  
"immediately."

Dear Mr. Morris:

Your opinion request in regard to the above matter indicates that you are in doubt as to the word "immediately" in a case in which a defendant is arrested at night and a magistrate is not presently available.


In this context you are advised, that, in the regular course of official business, a magistrate, before whom the statute requires the defendant to be taken, does not keep open office at night. Hence, under these circumstances, pending the return of the regular time for official business, a defendant need not be taken instantaneously or without intervention of time before a magistrate but may be taken before him at such time as he commences his regular daylight office hours. Gilbert v. State, 284 S.W.2d 906; Beeland v. State, 193 S.W.2d 687; Touraker v. Kidd Springs Boating and Fishing Club, 65 S.W.2d 796; Robinson v. Lovell, 238 S.W.2d 294; Hicks v. Matthews, 266 S.W.2d 846.

## SUMMARY

When a defendant is arrested at night, Article 15.16, Texas Code of Criminal Procedure requires that he be taken before a magistrate no sooner than the opening of the magistrate's office during the daylight hours.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

By: 

CHARLES B. SWANNER  
Assistant Attorney General

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APPROVED:

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL

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